

FILED

JAN 24 2006

[Signature]
CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

JUAN GUERRA-GARCIA,

CIV 02-4240

Petitioner,

-VS-

UNITED STATES OF AMERICA,
Respondent.

ORDER GIVING NOTICE OF
INTENT TO DISMISS FOR
FAILURE TO PROSECUTE

Petitioner, Juan Guerra-Garcia, was sentenced on October 29, 1999, to imprisonment of 72 months and supervised release of four years for possession with intent to distribute and aiding and abetting the possession with intent to distribute methamphetamine. Petitioner filed a motion entitled "Petitioner's Motion For A Reduction in Sentence" on November 13, 2002. Doc. 1. This Court entered an Order Giving Notice of Classification of Motion on November 20, 2002. This Order required that Petitioner file a Response with the Court indicating whether he would consent to the classification of his motion as a Motion to Vacate, Correct, or Set Aside Sentence pursuant to 28 U.S.C. § 2255, would wish to withdraw the motion, or would provide the Court with another legal basis under which to classify the motion. The Order Giving Notice of Classification of Motion required Petitioner to take one of the actions by December 20, 2002. Doc. 3. Petitioner has not filed any document with the Court since the issuance of the Court's Order Giving Notice of Classification of Motion.

If no action is taken in this matter, the action should be dismissed for failure to prosecute. Accordingly,

IT IS ORDERED that Petitioner respond to the Court's Order Giving Notice of Classification of Motion within 20 days of the issuance of the Order at hand or the above action will be dismissed for failure to prosecute.

Dated this 22nd day of January, 2006.

BY THE COURT:

[Signature]
Lawrence L. Piersol
United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY: *[Signature]*
(SEAL) DEPUTY